

Amendment No. 1 to HB0169

Wirgau
Signature of Sponsor

AMEND Senate Bill No. 225

House Bill No. 169*

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 67, is amended by adding the following as a new chapter:

67-11-101. This chapter shall be known and may be cited as the "Local Option Transit Improvement Act."

67-11-102. As used in this chapter:

- (1) "County" means any county located in this state and includes any county having a metropolitan or consolidated form of government;
- (2) "Implementing agency" means any public transit agency, regional transportation authority created under title 64, chapter 8, or other state or local government department, agency, or designated entity that is responsible for planning or implementing a transit improvement program;
- (3) "Local government" means any county or municipality in this state;
- (4) "Municipality" means any city or town in this state;
- (5) "Public transit system" means any mass transit system intended for shared passenger transport services to the general public, together with any building, structure, appurtenance, utility, transport support facility, transport vehicles, service vehicles, parking facility, or any other facility, structure, vehicle, or property needed to operate the transportation facility or provide connectivity for the transportation facility to any other non-mass transit system transportation

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infrastructure, including, but not limited to, interstates, highways, roads, streets, alleys, and sidewalks;

(6) "Regional planning organization" means any formally designated metropolitan planning organization or rural planning organization that serves to plan and prioritize transportation projects for state and federal funds;

(7) "Surcharge" means a tax, or combination of taxes, levied by a local government pursuant to this chapter; and

(8) "Transit improvement program" means a program consisting of specified public transit system projects and services.

67-11-103. This chapter authorizes:

(1) Local governments within a county that is part of a regional transportation authority created pursuant to § 64-8-203, or within a county with a residential population in excess of three hundred fifty thousand (350,000), according to the 2010 federal census or any subsequent federal census, to collectively impose a countywide transportation improvement surcharge to fund all or part of the costs associated with maintaining, improving, expanding, or managing public transit facilities or systems and related infrastructure; and

(2) A municipal government having a population in excess of one hundred sixty-five thousand (165,000), according to the 2010 federal census or any subsequent federal census, if an election held pursuant to this chapter results in the rejection of the levy of a countywide surcharge, to impose a citywide transportation improvement surcharge to fund all or part of the costs

associated with maintaining, improving, expanding, or managing public transit facilities or systems and related infrastructure.

67-11-104.

(a) Revenue generated by the surcharge shall be deposited into a transit improvement trust fund before being distributed to the implementing agency responsible for carrying out the transit improvement program developed pursuant to § 67-11-105.

(b) Revenue from a surcharge must be used for costs associated with the planning, engineering, development, construction, implementation, administration, management, operation, and maintenance of public transit system projects that are part of a transit improvement program.

(c) Revenue from the surcharge may be:

(1) Combined with other funding generated by local, state, or federal governments from taxes, fees, or fares, and may be used to match state aid funds and federal grants;

(2) Combined with private monies where allowed by law and used as a public entity's share of costs associated with a public-private initiative entered into pursuant to Chapter 975 of the Public Acts of 2016;

(3) Pledged to the payment of bonds issued for the purposes of financing a transit improvement program in accordance with this chapter; and

(4) Directed or transferred to implementing agencies to carry out a transit improvement program.

(d) If either a transit improvement program or a public transit system project that is part of a transit improvement program becomes unfeasible, impossible, or not financially viable, the revenue from the surcharge for the

transit improvement program may be directed to and utilized for a separate transit improvement program or public transit system project that:

(1) Has been approved by:

(A) A joint resolution pursuant to § 67-11-105; and

(B) A majority of the number of registered voters of the local government voting in an election pursuant to the procedures in § 67-11-106; and

(2) Otherwise meets the requirements of this chapter.

(e) No proceeds from any bonds, notes, or other indebtedness shall be used for costs associated with the operation of any public transit system projects or services that are part of a transit improvement program.

67-11-105.

(a) Prior to imposing a surcharge:

(1) Local governments shall coordinate with public transit agencies, public works entities, and highway departments operating within the county, and with the department of transportation and the regional planning organization serving the county to develop a transit improvement program in accordance with subsection (d); and

(2) The county mayor or the mayor of the municipality with the largest population within the county, according to the 2010 federal census or any subsequent federal census, shall establish a coordinating committee in accordance with subsection (b) to carry out the requirements of this chapter.

(b) A coordinating committee required by subdivision (a)(2) shall be composed of a minimum of ten (10) members as follows:

(1) The county mayor, or the county mayor's designee, to be confirmed by the county legislative body; provided, that a member of the county legislative body may serve as such designee subject to such confirmation;

(2) The mayor of each municipality within the county, or the mayor's designee, to be confirmed by the municipal governing body;

(3) The county highway superintendent, or the superintendent's designee;

(4) One (1) representative of the transportation, streets, or public works department of each municipality within the county;

(5) One (1) member appointed by the governing body of each local and regional public transit agency operating within the county;

(6) One (1) member appointed by the board of each regional planning organization which serves the county;

(7) The commissioner of transportation, or the commissioner's designee;

(8) One (1) member appointed by the largest chamber of commerce within the county, to be appointed after consultation with any other chamber of commerce within the county;

(9) One (1) member appointed by the county mayor; and

(10) One (1) member appointed by the mayor of the municipality with the largest population within the county, according to the 2010 federal census or any subsequent federal census.

(c) In making appointments to the committee under subdivisions (b)(9) and (10), the appointing authorities shall strive to ensure the broadest possible representation of citizens within the county, including minority populations.

(d)

(1) The duty of the coordinating committee is to develop a transit improvement program to describe the proposed transportation projects and any services, operations, or maintenance programs to be implemented with the funding generated by any surcharge. The program also must specify the tax and rate for which any surcharge will be imposed, and identify the mechanism for establishing the transit improvement trust fund into which the funding will be deposited.

(2) In carrying out the duties of the coordinating committee, local governments are encouraged to engage the regional planning organization to facilitate meetings, prepare analysis, and document decisions related to the transit improvement program.

(3) Prior to finalizing the transit improvement program, the coordinating committee shall:

(A) Be in receipt of a resolution from the policy board of the regional planning organization certifying that the program is consistent with regional transportation plans and improvement programs that have been jointly adopted by the state and local governments across the region; and

(B) Conduct at least two (2) public hearings and shall give at least fifteen (15) days advance notice of the time, place, and purpose of each public hearing by notice published in a newspaper of general circulation throughout the county.

(4) The transit improvement program developed by the committee shall be ratified by joint resolution of the governing bodies of jurisdictions representing at least fifty percent (50%) of the entire residential

population within the county in which the surcharge is proposed to be levied. The joint resolution shall contain the information required by subdivision (d)(1) and a brief summary of the transit improvement program for which revenue from any surcharge will be used, written in a clear and coherent manner using words with common everyday meanings, and not exceeding two hundred fifty (250) words in length. A certified copy of the joint resolution shall be submitted to the county election commission upon ratification.

67-11-106.

(a) A surcharge may be imposed on a local tax, or combination of local taxes, that is being levied and collected by or on behalf of a county or municipality pursuant to title 5, 6, 7, this title, or private act at the time a transit improvement program is ratified by joint resolution in accordance with § 67-11-105(d)(4).

(b) No surcharge under this chapter shall become effective unless approved by a majority of the number of registered voters of the local government voting in an election on the question of whether the surcharge shall be levied, pursuant to the procedures in subsection (c).

(c) Upon the adoption of a transit improvement program in accordance with § 67-11-105(d)(4), and receipt of a certified copy of the adopted joint resolution regarding the program, the county election commission shall call an election to be held in accordance with § 2-3-204 to approve or reject the levy of the surcharge. An election to approve or reject the levy of the surcharge may be considered a general election for purposes of § 2-3-204(c), which shall be conducted as follows:

(1) The ballots used in the election shall have printed on them the surcharge and the brief summary of the transit improvement program from the joint resolution adopted pursuant to § 67-11-105(d)(4), providing options to vote "FOR" or "AGAINST" the joint resolution levying the surcharge, and the voters shall vote for or against approval of the joint resolution;

(2) The votes cast shall be canvassed and the results proclaimed and certified by the county election commission to each local government's legislative body;

(3) The qualifications of voters shall be the same as those required for participation in general elections;

(4) All laws applicable to general elections shall apply to the determination of the approval or rejection of the surcharge; and

(5) If the majority of those voting in the election vote for the ordinance or resolution levying the surcharge, the joint resolution shall be deemed to be approved on the date that the county election commission makes its official canvass of the election returns.

(d) No surcharge shall be collected until the first day of a month occurring at least sixty (60) days after the date of approval of the levy of the surcharge; provided, however, that such surcharge shall apply only to tax periods beginning on or after October 1, 2017. The county government shall furnish a certified copy of the adopted joint resolution to the department of revenue within ten (10) days of the approval of the levy of the surcharge.

(e) Any surcharge levied pursuant to this chapter shall remain in effect until the occurrence of a specific date or condition of termination in the joint

resolution adopting the surcharge, or until the surcharge is repealed in the same manner as adopted under this chapter.

(f) If an election held pursuant to this chapter results in the rejection of the levy of the surcharge, a subsequent election regarding a surcharge authorized by this chapter shall not be held for at least twelve (12) months from the date of the election.

(g) Notwithstanding subsection (f), if an election held pursuant to this chapter results in the rejection of the levy of a countywide surcharge, a municipality having a population in excess of one hundred sixty-five thousand (165,000), according to the 2010 federal census or any subsequent federal census, within the county may by resolution of the legislative body of the municipality direct the county election commission to call an election to be held in accordance with § 2-3-204 to approve or reject the levy of the surcharge within the corporate boundaries of such municipality.

(h) The rate of any surcharge for the local taxes shall not separately exceed the maximum rate established for the applicable underlying local tax. Any local government shall levy any surcharge up to the maximum rate as provided in this subsection (h) without affecting the available taxing authority and rates of local taxes.

(i) Nothing in this chapter requires revenue from a surcharge levied pursuant to this chapter to be expended or distributed for school purposes.

67-11-107. The surcharge levied pursuant to this chapter is a separate charge and shall be in addition to all other taxes and fees levied by local governments pursuant to title 5, 6, 7, this title, or any private act. The surcharge shall not otherwise affect the levy, administration, or use of taxes authorized by title 5, 6, 7, this title, or private act, nor

shall any other section of title 5, 6, 7, this title, or any private act supersede the provisions for the levy, administration, or use of the surcharge in this chapter.

67-11-108.

(a) Any surcharge shall be levied, collected, and administered in the same manner as the applicable underlying local tax.

(b) The taxpayer shall have the remedies applicable to the underlying local tax.

(c) Any penalty and interest applicable to the underlying local tax shall be applicable to the surcharge.

(d) For any surcharge that the department of revenue administers and collects, the department of revenue shall administer and collect the surcharge as follows:

(1) In collecting and administering a surcharge levied under this chapter, the commissioner of revenue shall have the same powers as the commissioner has in collecting and administering the underlying tax;

(2) The department shall remit the proceeds of the surcharge to the transit improvement trust fund established pursuant to § 67-11-104, less an administrative fee of one and one hundred twenty-five thousandths percent (1.125%) to cover its expenses of administering the collection and remittance of the surcharge; and

(3) Upon any claim of illegal assessment or collection, the taxpayer shall have the remedies provided in § 67-1-1438, and chapter 1, part 18 of this title, it being the intention of the general assembly that the law which applies to the recovery of underlying taxes illegally assessed or collected be conformed to apply to the recovery of surcharges illegally assessed or collected under this chapter.

67-11-109. The financing and operations of a transit improvement program shall be accounted for in a manner approved by the comptroller of the treasury and in compliance with generally accepted accounting principles (GAAP). Nothing in this chapter limits the authority of the comptroller of the treasury to audit the revenues and expenditures of a transit improvement program, the financing or operations of a transit improvement program, and to charge a reasonable fee for any extraordinary fee services.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.